



Appeal Decision

Site visit made on 24 September 2019

by S Thomas BSc (hons) MSc MRTPI

an Inspector appointed by the Secretary of State

Decision date: 13 May 2020

Appeal Ref: APP/G1630/W/19/3233022

**Field Adjacent to Hawthorn House, Main Road, Minsterworth,
Gloucestershire GL2 8JH**

- The appeal is made under section 78 of the Town and Country Planning Act 1990 against a refusal to grant permission in principle.
 - The appeal is made by Mrs Samantha Watson against the decision of Tewkesbury Borough Council.
 - The application Ref 18/01141/PIP, dated 8 November 2018, was refused by notice dated 17 April 2019.
 - The development proposed is for residential dwellings estimated between 3-5 in number.
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Decision

1. The appeal is allowed and permission in principle is granted for residential dwellings estimated between 3-5 in number at Field adjacent to Hawthorn House, Main Road, Minsterworth, Gloucestershire GL2 8JH in accordance with the terms of the application, Ref 18/01141/PIP, dated 8 November 2018.

Application for costs

2. An application for costs was made by Samantha Candida Watson against Tewkesbury Borough Council. This application will be the subject of a separate Decision.

Procedural Matters

3. I have made a minor amendment to the address from that stated on the application form as the word adjacent was spelt incorrectly. The description of development in the banner heading above has been taken from the Council's decision notice. It adequately and simply describes the development instead of the much longer and detailed description given on the application form. However, I have amended the word 'estimates' with 'estimated' in the interests of clarity. I have also omitted the words 'permission in principle' as these are not a description of development.
4. During the course of the appeal the appellant provided further information in relation to a recent planning permission (19/00733/FUL) for a replacement dwelling close to the appeal site which they considered relevant. The parties were invited to comment on this, and their responses have informed my determination of the appeal.

Main Issues

5. The main issues are: (i) whether the proposed development would be a suitable location for housing and (ii) the effect of the proposal on the potential presence of archaeological heritage assets.

Reasons

Suitable location for housing

6. The appeal site is an area of open pastureland. The site is bounded to the north by a property known as Hawthorn House and to the South by the access road serving another property which is set much further back from the road. The site fronts the A48 road and is screened by a mature hedgerow. The immediate area is characterised by dispersed residential dwellings set within large plots amongst open agricultural land, creating a very loose settlement pattern.
7. Policy SP2 of the Gloucestershire, Cheltenham and Tewkesbury Joint Core Strategy (2017) (JCS) sets out the distribution of development and identifies Minsterworth as one of 12 service villages. It states these service villages are intended to accommodate lower levels of development which will be allocated through the Tewkesbury Borough Local Plan. The policy states that in the remainder of the rural area Policy SD10 of the JCS will apply to proposals for residential development for non-allocated sites.
8. The proposal does not constitute previously developed land and therefore does not meet criterion 3 of Policy SD10. Criterion 4 sets out the circumstances where other developments would be considered. However, some are not relevant to this appeal. The key area in dispute between the parties is whether the proposal meets Criterion 4 (ii) of this policy. This permits development where it would constitute infilling within the existing built up areas of villages. The supporting text to Policy SD10 indicates that infill means the development of an under-developed plot well related to existing built development.
9. Whilst Minsterworth lies within a Service village there are no development boundaries defined within the JCS. The site lies adjacent to existing built development to the north and borders the curtilage of a dwelling to the south (although this is sat far back in the plot) and an existing dilapidated dwelling to the east which is the subject of the recent replacement dwelling application.
10. Whilst the site is well related to existing built development (Hawthorn House), there are, notably, distinct pockets of built up areas along the main road within Minsterworth and the appeal site lies approximately a similar distance between each of these. Thus, the site is well outside of them. I therefore conclude that the site is not within the existing built up area of a village. Consequently, the proposal would not constitute infill within the existing built up area for the purposes of Policy SD10. For the above reasons, I conclude that the proposed development would conflict with Policies SP2 and SD10 of the JCS.
11. The Council has referred to the emerging Pre-Submission Tewkesbury Borough Plan (the emerging plan) which was due to be consulted upon late 2019. This includes proposed settlement boundaries (Policy RES2) for Minsterworth which encompass the pockets of built up areas of development along the A48 that I have referred to above. These define the area where the principle of development is acceptable, and the appeal site does not fall within either settlement boundary and is situated some distance between them.

12. Policy RES3 of the emerging plan sets out circumstances where development outside settlement boundaries would be applicable. In this case the scheme would not meet the proposed criteria. Thus, I consider the appeal proposal would be in conflict with the emerging plan.

Effect on Archaeological heritage assets

13. The Council state that the surrounding area is archaeologically sensitive as a previous archaeological investigation undertaken on a nearby site confirmed the presence of a Roman settlement. Given the extent of the Roman settlement is unknown and the proximity of the appeal site to this area, the Council considers there to be potential for the site to have archaeological remains. Paragraph 189 of the National Planning Policy Framework (the Framework) requires that where a site has the potential to include heritage assets with archaeological interest, then an appropriate desk-based assessment and where necessary a field evaluation should be submitted. No desk study has been submitted. Paragraph 197 of the Framework also requires the effect of an application on a non designated heritage asset should be taken into account in determining the application.
14. However, given that this is a permission in principle application, only matters relating to location, amount of development and use are considerations to be taken into account at this stage. The site will not benefit from planning permission until such time as the Technical Details Consent (TDC) has been granted. The Planning Practice Guidance (PPG) indicates that this is when other statutory requirements apply. This includes matters of archaeology that may or may not be relevant to the appeal site. I acknowledge the Council's argument that in the absence of survey work the principle of the number of dwellings cannot be established. However, in the event that archaeological assets were to be found at TDC stage and were of such significance that their loss could not be mitigated against, the Council has the power to refuse TDC consent.
15. Therefore, on the basis of the available evidence and the requirements of Permission in Principle applications I cannot conclude the proposal would result in unacceptable harm to archaeological heritage assets. Therefore, the proposal would not be in conflict with Policy SD8 of the JCS which seeks to conserve heritage assets or with the Framework.

Planning Balance

16. The Council is unable to demonstrate a 5-year supply of housing; however, the exact nature of the shortfall is disputed between the parties. The Council consider that based on their latest evidence the supply is 4.33 years with a shortfall of 223 dwellings. The appellant indicates that using the approach in a recent upheld appeal decision¹ which discounted advance delivery rates over the plan period the supply would be 2.77 years. Whilst the Council disagrees, in any event it is accepted between the parties that the shortfall is substantial and thus paragraph 11 of the framework is engaged.
17. The proposal would assist in contributing to the borough's overall availability of housing, although given the small nature of the scheme, this contribution would be limited. Notwithstanding this, the shortfall is accepted between the parties as substantial and thus this is a public benefit of the proposal. Further,

¹ APP/G1630/W/17/3184272

economic benefits would also arise from the construction and occupation of the proposed houses. I also acknowledge some community facilities have been lost in the village and additional housing will assist in supporting existing services within Minsterworth. I have considered Paragraph 59 of the Framework which seeks to boost significantly the supply of housing. Further I have considered Paragraph 68 of the Framework which recognises the importance of small sites in meeting the housing requirement of an area. I give each of the benefits above moderate weight.

18. The proposal would be in conflict with Policy SP2 and SD10 of the JCS. Given the Council cannot demonstrate a 5-year supply of housing, in line with the Framework the policies for the supply of housing are considered out of date. Policies SP2 and SD10 are the most relevant for the supply of housing dealing with the distribution and delivery of new housing development. Given, even the best Housing Land Supply scenario put forward by the Council, there is still a shortfall and the policies are therefore clearly not effective in delivering the required homes. I therefore find conflict with the aims of the Framework which in particular seeks to significantly boost the supply of homes. Therefore, I give the conflict with the development plan policies limited weight.
19. Given my findings on archaeological matters, their potential presence does not provide a clear reason for dismissing the appeal. I therefore give the Council's concern on this matter limited weight and do not find conflict with Policy SD8. Therefore, in line with the Framework, planning permission should be granted unless any adverse effects of doing so would significantly and demonstrably outweigh the benefits, when assessed against the policies in the Framework taken as a whole.
20. In terms of adverse effects, I have found the proposal would conflict with the emerging plan, however, this plan has not yet been examined and accordingly the proposed approach to settlement boundaries (RES2) and the relevant Policy RES3 has not yet been found sound and could change. Further, on the basis of the evidence before me I do not know if there are any unresolved objections to these policies. Accordingly, whilst the proposal would be in conflict with the emerging plan, for the reasons above I attach limited weight to this in my determination of the appeal.
21. The Council indicates that the village has had more than a proportionate level of growth given existing housing commitments, which they state would represent a 40% increase on housing numbers since 2011. I also acknowledge the Council's point that since 2015 Minsterworth has lost some local services. However, these permissions indicate to me that the area is considered a suitable location for further housing and whilst I acknowledge the loss of some services, additional housing will help support remaining services. Given the above, the lack of a 5-year housing land supply and the fact that there is no allocation of housing numbers to each of the villages in order to determine what constitutes a proportionate level of growth I give this limited weight.
22. I have also considered the recent grant of planning permissions for 5 dwellings at the former Apple Tree Inn and for a replacement dwelling in close proximity to the site. This will increase the built-up nature of the area when considered alongside this appeal site and informs my view that there are no significant adverse effects in environmental terms that would arise from the proposal.

However, this is a neutral factor counting neither for nor against it. I do not therefore find any adverse effects that would conflict with the Framework.

Conditions

23. I have considered the Council's suggested time limit condition for the submission of the subsequent Technical Details Consent application should the appeal be allowed. However, I am mindful of the PPG which states that it is not possible for conditions to be attached to a grant of permission in principle and its terms may only include the site location, the type of development and amount of development and thus have not imposed it.

Conclusion

24. I find that the adverse impacts of the proposal would not significantly and demonstrably outweigh the benefits identified. The proposal thus represents sustainable development and this weighs in favour of a grant of planning permission. I therefore find the material considerations in this case justify taking a decision otherwise than in accordance with the development plan.
25. For the reasons above, the appeal succeeds.

Stephen Thomas

INSPECTOR